

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

EDSON TORO

v.

CA No. 05-455-T

STEPHEN REGINE, A.T. WALL
AND PATRICIA COYNE-FAGUE

ORDER DISMISSING PETITION
AND DENYING MOTION FOR STAY

Edson Toro's objection to the Magistrate Judge's Recommendation that his petition be dismissed without prejudice is overruled and the Recommendation is accepted. Toro's claim appears to be based on the contention that the defendants erred in calculating his "good time" credit and, therefore, his release date. He objects to the magistrate judge's Recommendation on the ground that Judge Fortunato has, in fact, determined that Toro was incarcerated beyond his release date. However, Toro ignores the fact that:

1. Judge Fortunato's decision is not final because it was stayed by the Rhode Island Supreme Court and currently an appeal of the decision is pending before that court.
2. During the period that Toro claims he was deprived of his liberty, he began serving a 28-year sentence for second degree murder in a different case.

Toro's motion to stay his nolo plea in the second degree murder case is hereby DENIED. Toro has provided no basis upon which such a stay should be granted and it appears that this Court lacks jurisdiction to grant such a stay.

By Order


Deputy Clerk

ENTER:


Ernest C. Torres
Chief Judge

Date: July 24, 2006